



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

June 22, 2012

(SN XXX)

WIA BULLETIN NO. XXX.

TO: Local Workforce Investment Act Administrators and Chairs

FROM: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations

SUBJECT: Revised Policies and Procedures for Hawaii's Eligible Training Provider List (ETPL)

PURPOSE

This provision rescinds the current ETPL policies and procedures dated April 2002 as related to the approval process of training offerings from public and private providers of job training services.

This policy is meant to reduce duplication and delays within the current ETPL processes to ensure access to a variety of quality programs offering training services for Workforce Investment Act (WIA) Title I participants provided for under Adult, Dislocated, and Youth formula funds.

This policy provides a methodology for local areas to assure access to WIA training services in a flexible manner to meet the needs of participants, while continuing to maintain maximum customer choice.

REFERENCES

1. Workforce Investment Act of 1998 (WIA), P.L. 105-220, Sec. 122 and 134
2. 20 CFR Subpart E – Eligible Training Providers §663.515

BACKGROUND

The Workforce Investment Act (WIA) of 1998 requires training providers to apply to a Local Workforce Development Board (LWIB) for certification to receive WIA formula funds. The State Workforce Agency, also known as the Department of Labor and Industrial Relations (DLIR), is responsible for ensuring that the publicly accessible Statewide List of Certified Training Providers include all training programs that are currently approved by one or more LWIB.

POLICY

Effective July 1, 2012, the state policy regarding the two (2) year time limitation for eligible training providers (ETPs) is hereby rescinded. Additionally, the terms and definitions for "Long Term" and "Short Term" training are rescinded as well.

This policy is in effect as long as the state's waiver regarding the initial eligibility time restriction is in place and approved by the U.S. Department of Labor (USDOL). If at any time the currently approved waiver is disapproved by the USDOL, the DLIR will issue revised policies and procedures to comply with WIA rules and regulations.

LWIBs should provide the most opportunity for individuals to select any of the ETPs, from any of the local areas in the State, that are included on the Statewide List of Certified Training Providers to provide services. WIA Adult, Dislocated and Older Youth participants may only choose training programs and courses on the Statewide List of Certified Training Providers.

PROCEDURES

1. Each LWIB will develop policies and procedures for approving Eligible Training Providers in compliance with the attached document entitled: "Hawaii Policies and Procedures: Eligible Training Providers, July 2012.
2. Approval of all Eligible Training Providers is the responsibility of the LWIBs. The LWIBs will ensure compliance with state criteria outlined in the attached document entitled: "Hawaii Policies and Procedures: Eligible Training Providers, July 2012.
3. Each LWIB will ensure that their policies and procedures are in effect by December 1, 2012.
4. LWIBs will ensure that the state Eligible Training Provider list and the information provided are current through the Kumu A'o website at:
<http://dlir.state.hi.us/labor/etp/>.

INQUIRIES

Please call Mr. James P. Hardway, Executive Director of the WDC, at 808-586-8671 or by email at jhardway@hawaii.gov should you have any questions regarding this WIA Bulletin.

Dwight Y. Takamine, Director

Enclosure

c: Roland Prieto, County of Maui
Marilyn Matsunaga, City & County of Honolulu
Jan Miyamoto, County of Kauai
Kathleen Nielsen, County of Hawaii
James Hardway, WDC
Elaine Young, WDD
ASO—WIA Unit
ASO—Federal Unit

**Policies and Procedures Manual:
Designating Training Providers as Eligible to Receive Federal Workforce
Investment Act Funds
through Individual Training Accounts (ITAs)**

Contents

Purpose	2
Designated State Agency	2
Background	2
Individual Training Accounts (ITAs)	3
Definition	3
Exceptions to ITAs	3
State Policies Applicable to ITAs	4
LWIB Procedures for ITAs	4
Initial Eligibility	5
Eligibility Period	5
LWIB Selection Procedures	5
Eligible Training Providers List	7
Promulgation of List	9
Subsequent Eligibility	9
Notification of Ineligibility or Termination	9
Appeal Procedure	10

PURPOSE

Per Section 122 of the Workforce Investment Act (WIA), the Department of Labor and Industrial Relations (DLIR), on behalf of the Governor, is responsible for establishing the procedures, including minimum criteria, for the Local Workforce Investment Boards (LWIBs) to use in designating the training providers who will be eligible to receive WIA Title I funds through Individual Training Accounts (ITAs) in their local areas. This Policies and Procedures Manual updates the 2002 version and supplements Title I-A and B of WIA and its Final Rules (20 CFR Part 652 et al.). The Manual presents the State's policies regarding:

- Individual Training Accounts (ITAs)
- Eligibility of training providers
- Dissemination of the resulting statewide eligible providers list
- Appeals

DESIGNATED STATE AGENCY

The Department of Labor and Industrial Relations (DLIR) is the designated State agency for these procedures.

BACKGROUND

The workforce investment system established under the WIA emphasizes informed customer choice, system performance, and continuous improvement to increase the employment, retention and earnings of participants and increase occupational skill attainment by participants, and as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of individuals. Drafters of this legislation intended to judge the worth of training based on outcomes and customer satisfaction, rather than "seat time" and contracts with "x" number of slots to be filled. Thus, there is performance information on job placement, retention, wages, and skill attainment. In addition, there are Individual Training Accounts (ITAs) to allow customers to comparison shop. Key elements in the eligible provider process are 1) the ability of providers to successfully perform and 2) the degree to which provider information, including performance information, is available to customers through the One-Stop system.

Eligible training providers may serve WIA participants who are adults and dislocated workers. After receiving core and intensive services and developing an individual employment plan in consultation with case managers, eligible WIA participants who need training should be able to make informed choices from the statewide list of eligible providers. Although the list is called eligible providers, in fact, it is more specific and lists the qualified training program(s) of each provider because it is possible for one provider to have both eligible and ineligible programs.

INDIVIDUAL TRAINING ACCOUNTS (ITAS)

Definition

Individual Training Accounts (ITAS) will be the primary method of funding training services for eligible adults and dislocated workers. An ITA is an account established by a WIA program operator for an eligible customer. ITAs finance programs from eligible training providers [See WIA Reg. 663.410] of training services directly linked to employment opportunities in the area. "Employment opportunities" are those occupations in industries targeted by the LWIBs as desired growth industries for the area, as well as the demand occupations pinpointed by employers and projection models. "Employment opportunities" is a broadly defined term, to allow for targeted growth industries and the diverse aspirations of entrepreneurs.

Exceptions to ITAs

Contracts for services may be used instead of ITAs only when one of the following three (3) exceptions [§134(d)(4)(G)(ii)] applies:

1. On-the-job training (OJT) and customized training. [See WIA §101(8), 101(31), 122(h), 195(4) and WIA Regs. 663.700 - 663.720].
2. When the LWIB determines that there are an insufficient number of eligible providers for an ITA system. In such cases, the Local Plan must describe the process to be used in selecting the providers under a contract for services. This process must include a public comment period for interested providers of at least 30 days. [See WIA Reg. 663.430(a)(2)]
3. LWIBs determine that Community Based Organizations (CBOs) or other private organizations offer training services that have demonstrated effectiveness in serving special populations with multiple barriers to employment, for example, low-income individuals who are included in one or more of the following categories:
 - a. Individuals with substantial language or cultural barriers [Language barriers are broadly defined as all English literacy skills for both non-native and native English speakers.];
 - b. Offenders;
 - c. Homeless individuals;
 - d. Welfare recipients;
 - e. Persons with disabilities;
 - f. Those requiring services for substance abuse;
 - g. Individuals age 55 and older; and
 - h. Migrant and seasonal farm workers.

The LWIB must develop criteria to determine the demonstrated effectiveness. [See WIA Reg. 663.430(a)(3) for the required LWIB procedures.]

State Policies Applicable to ITAs

1. ITAs may cover the costs of items available through the selected eligible training provider. Specifically, the items can only include:
 - a. Tuition and fees for training courses required to prepare a customer for a job;
 - b. Textbooks, supplies, uniforms, and necessary training materials;
 - c. Testing fees for certification; and
 - d. Admission examinations.
2. If the customer qualifies for any type of financial aid awards, those awards are first applied towards the training cost before ITAs are provided. The customer will not be required to take out student loans.
3. An individual may select training that costs more than the maximum amount available for ITAs when other sources of funds (e.g., Pell Grants, scholarships, severance pay) are available to supplement the ITA.
4. The One-Stop Operator, on behalf of the partners' case managers, arranges for paying the training costs and deducting the costs from the customer's ITA balance.
5. ITAs will comply with applicable county, state, and federal procurement laws.

LWIB Procedures for ITAs

The LWIBs will develop their own procedures, which will be described in their local five-year WIA plans. [Refer to WIA Regs. 661.350(a)(3) and (5)] At minimum, the procedures must address:

1. Any limits the LWIBs choose on the dollar amount, duration, number and scope of ITAs for individuals;
2. Procedures for paying the training providers; (LWIBs may decide what portion to pay before the course is completed.)
3. How ITA expenditures will be controlled and tracked;
4. How a customer will be able to complete training planned if the applicable training program is removed from the list of eligible training providers before that customer completes training; and
5. If the local area will use exceptions to ITAs (See page 3).

Initial Eligibility

Eligibility Period

Initial eligibility will be effective until the LWIB determines ineligibility, or the U.S. Department of Labor rescinds Hawaii's waiver regarding subsequent eligibility and performance.

LWIB Selection Procedures

Each LWIB will develop application and certification procedures that ensure quality training from those entities wishing to provide job training and/or intensive services in their local area.

1. Each LWIB shall develop local application requirements for initial certification for the following providers of training services:
 - a. a postsecondary educational institution that:
 - i. is eligible to receive federal funds under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*); and
 - ii. provides a program that leads to an associate degree, baccalaureate degree, or certificate.
 - b. an entity that carries out programs under the Act of August 16, 1937, commonly known as the "National Apprenticeship Act," 50 Stat. 664, chapter 663; (29 U.S.C. 50 *et seq.*).
 - c. Each application must describe each program of training services to be offered, as well as the cost.
 - d. The procedures established by the LWIB must specify the timing, manner, and contents of the required application.
 - e. The programs and providers approved by the LWIBs under this section are eligible without review from the DLIR.
2. State initial eligibility requirements for other eligible providers.

As required under 20 CFR Subpart E – Eligible Training Providers- §663.515(c)(1), for those entities that do not fall into the categories described in subsection 1(a) of the LWIB Selection Procedures section, the LWIBs shall ensure the following state criteria is met when reviewing and approving these eligible training providers:

- a. Licensing: State law requires significant consumer protection through its licensing requirements. Training providers must be registered or licensed with the State Department of Commerce and Consumer Affairs if applicable (i.e., Massage, Cosmetology or Real Estate); approved by the Federal Aviation Administration (FAA) if a pilot or aviation school; a trade, vocational, or

technical school licensed by the State Department of Education (DOE), unless exempt; or accredited by a recognized accrediting body.

- b. Distance Learning/On-Line Training providers: The only distance learning programs that can be eligible are offered by institutions that are fully accredited by a recognized accrediting body. The student and teacher are not place-bound or time-bound in "distance learning/on-line training programs."

LWIBs wishing to consider on-line training providers should refer the applicant for vetting to the Director of Workforce Development for the University of Hawaii Community College System.

- c. Hawaii Compliance Express: All applicants are required to be registered and certified as "Compliant" on the Hawaii Compliance Express website (<https://vendors.ehawaii.gov/hce/splash/welcome.html>).
 - d. Certificate of Liability Insurance. Applicants are required to ensure that certificate of liability insurance for the amount of at least \$2 million names the State of Hawaii Department of Labor & Industrial Relations (DLIR), and all the following counties in the State of Hawaii-- the City & County of Honolulu, the County of Maui, the County of Hawaii as well as the County of Kauai -- as additional insured.
 - e. Performance Standards. Programs currently offered must have had a minimum completion rate of 35 percent of all individuals enrolled in the prior two years. Data are subject to verification by the DLIR.
- 3. For purposes of confirming training provider initial eligibility application information, and as determined reasonable by the LWIBs, on-site visits shall be made by the DLIR to training provider program sites.
 - 4. The LWIB shall provide a written notice of determination of acceptance or rejection of an initial application to an applying entity within ninety (90) calendar days of the receipt of the completed initial eligibility determination application.
 - 5. LWIB policy shall determine the circumstances under which reconsideration of an application may be afforded to an entity whose initial application for provider certification was denied.

Eligible Training Provider Lists

The Eligible Training Providers list includes:

1. Those training providers and community-based organizations with whom the LWIBs have written contracts for services as exceptions to ITAs [refer to items 2 and 3 on page 3 of this Policies and Procedures Manual and WIA Regulation 663.430(a)(2) and (a)(3)].

When the contracts are executed, the LWIBs shall notify the DLIR's Workforce Development Council (WDC). Those training providers who apply and are selected to be placed on the list so that WIA customers may use ITAs to choose appropriate training; specifically:

- a. Postsecondary institutions that are eligible to receive federal student aid funds (Title IV of the Higher Education Act of 1965) and provide programs that lead to an associate degree, baccalaureate degree, or certification, must submit an application, listing all programs seeking initial eligibility. Non-credit courses may be included in these programs. The application is submitted to the LWIB(s) in the local area(s) where the institution desires to deliver training services. Initial eligibility for these programs will be automatic unless the LWIB determines that there is an error in the application. Their "initial date of eligibility" will be July 1. These postsecondary institutions can amend their applications to include additional programs and/or additional geographic areas throughout the initial eligibility.
- b. Training providers that provide apprenticeship programs registered under the National Apprenticeship Act must submit an application listing all programs seeking initial eligibility to the LWIB(s) in the local area(s) where the provider desires to deliver training services. Initial eligibility for these programs will be automatic unless the LWIB determines that there is an error in the application. Their "initial date of eligibility" will be the date the program is placed on the statewide eligible list. These apprenticeship programs may amend their applications to include additional programs and/or additional geographic areas throughout the initial eligibility.
- c. Other Training Providers may apply to the LWIB(s) in the local area(s) where the provider desires to deliver training services. These providers can amend their applications to include additional geographic areas throughout the initial eligibility.

These include programs consisting of a course or courses that upon successful completion, leads to:

- (1) A certificate, an associate degree, baccalaureate degree, or
- (2) The skills or competencies needed for a specific job or jobs, an occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.

- (3) Courses that provide occupational skills that are prevocational in nature, such as computer literacy.

2. Required data information for the Eligible Training Providers list:

a. PROVIDER specific data:

- (1) Name of the Eligible Training Provider
- (2) Provider's island (Oahu, Big Island, Kauai, Maui, or Molokai)
- (3) Contact person's name and/or office
- (4) Contact street address, city, state, zip
- (5) Contact phone number
- (6) Contact fax number
- (7) Contact e-mail address
- (8) Provider's website address
- (9) If the provider wants to set a uniform cost for all its offered programs, state it. (For example, "\$497 per academic hour." Providers usually want to do this, as many ETPs use the same cost structure for all their programs. This number can be overridden at the program level, if a few programs have unique costs but most programs are the same.)
- (10) Accreditation of provider/licensing agency
- (11) Types of financial aid offered for its programs, and how to apply
- (12) Does provider offer job placement assistance? (Y/N)
- (13) Does the provider offer disability access? (Y/N)

b. PROGRAM/COURSE specific data:

- (1) Program/course title
- (2) Program description
- (3) Credential offered, for example, BA diploma, associate degree, certificate of completion, etc. (Note: This should be program-specific, not just a list of all credentials the provider offers)
- (4) Cost of program
- (5) Length of program (in weeks/months/etc.)
- (6) Total # of hours of program ("156 hours," e.g.)
- (7) When program meets (days, weekends, nights, summer session, etc.)
- (8) Is the program a "green" program? (Y/N)

Promulgation of List: The Eligible Training Providers List is posted electronically on the Kumu A'o website at <http://dlir.state.hi.us/labor/etp/>. It includes information on each WIA-eligible program.

The Eligible Training Providers list does not include:

Training providers who provide on-the-job and customized training according to employer specifications.

Subsequent Eligibility

Subsequent Eligibility is not applicable as it has been waived by the US Department of Labor.

Notification of Ineligibility or Termination

1. Within 10 days after an LWIB determines that a training provider's application does not meet the eligibility criteria, or that a provider's eligibility should be terminated, the LWIB shall issue a denial or termination notice to the training provider. A notice shall be issued listing each training program denied or terminated.
2. The notice shall be mailed to the training provider at the address listed on the application and to the attention of the contact person identified on the application. The notice shall clearly:
 - a. Display the "date mailed";
 - b. Identify the program that was denied or terminated;
 - c. State specific reason(s) for the action; and
 - d. State that the training provider has the right to appeal to the LWIB within 14 calendar days of the date the notice is mailed.
3. The LWIB shall send a copy of the notification to the WDC and WDD.

APPEAL PROCEDURE

1. To appeal a termination or denial of eligibility, the training provider must file the written appeal with the LWIB within 14 calendar days of the date the notice was mailed. Throughout this appeal procedure, "LWIB" refers to "the LWIB or its designee". An appeal does not affect the selection of other providers.

2. Administrative reconsideration:

Within 10 working days of the receipt of the appeal, the LWIB shall review the appeal and may reverse the original decision if an administrative error was made, or if additional information submitted by the training provider changes the basis on which the original decision was made.

- a. If the LWIB reverses its prior decision of termination or denial of eligibility, the LWIB shall:
 1. Forward the written decision, with the basis for the decision, and a copy of the appeal file to the WDC and WDD;
 2. Notify the training provider in writing of the decision and its basis and that the LWIB has notified the WDC and WDD; and
 3. Return the provider to the Initial or Subsequent Eligibility process.
- b. If the LWIB determines to continue to deny eligibility, the LWIB shall:
 1. Inform the training provider in writing of its decision to deny reversal of the original decision, including a basis for that denial;
 2. Provide the training provider with information regarding the further appeals process.
3. Formal appeal
 - a. Within 14 calendar days from the date the decision from 2.b. above was mailed, the training provider may file a formal appeal with the DLIR's Employment Security Appeals Referees' Office (ESARO).
 - b. Within 30 calendar days of the receipt of the formal appeal, a hearing officer from the ESARO will:
 - (1) Conduct a hearing at which the training provider and the LWIB will be allowed to present their cases; no new information will be allowed;
 - (2) Decide the case based on the review of the written record and the hearing arguments; and

- (3) No later than 30 working days of the conclusion of the hearing, issue a written decision to the training provider and the LWIB. The hearing officer's decision will be final and conclusive.
- c. If the hearing officer reverses the denial, the LWIB shall comply with the decision in a prompt and efficient manner. Procedures shall be followed for designating the training provider as eligible, inclusion of the training provider's program on the statewide list, and written notification to the training provider.